

MEDICAL LICENSING BOARD OF INDIANA

MINUTES
April 28, 2005

9:00 A.M.
CONFERENCE CENTER ROOM C
INDIANA GOVERNMENT CENTER SOUTH
302 WEST WASHINGTON STREET
INDIANAPOLIS, INDIANA

I. CALL TO ORDER

Dr. Barai called the meeting to order at 9:35 a.m. in Conference Center Room C, 302 West Washington Street, Indianapolis, Indiana and declared a quorum in accordance with IC § 25-22.5.

Members Present:

Bharat H. Barai, M.D., President
N. Stacy Lankford, M.D., Vice-President
Richard Krejsa, D.O.,
Worthe Holt, M.D., Secretary
Barbara Malone, J.D., Consumer Member
Ralph Stewart, M.D.,
William H. Beeson, M.D.

Members Not Present:

Staff Present:

Angela Smith Jones, Board Director, Health Professions Bureau
Jeanette Roberts, Assistant Board Director, Health Professions Bureau
James Schmidt, Legal Counsel, Office of the Attorney General
Gordon White, Legal Counsel, Office of the Attorney General

II. ADOPTION/AMENDMENTS TO THE AGENDA

A motion was made and seconded to adopt the agenda as amended.

Beeson/Lankford
Motion carried 5/0/0

III. ADOPTION/AMENDMENTS TO THE MINUTES OF March 24 2005

A motion was made and seconded to adopt the minutes of March 24, 2005.

Stewart/Lankford
Motion carried 5/0/0

IV. PROBATIONARY APPEARANCES
(Before one member of the Board only)

The remaining physicians listed, appeared per their order and no other issues arose during the probationary appearance:

Susan Hill, D.O.
Jan Allan Mayer, M.D.
Andrew Wyant, M.D.
Deborah Provisor, M.D.
Glenn Ballengee, M.D.
Jeffrey Seizys, M.D.
Deborah Redd, M.D.
Stephen Matthews, M.D.
Jan Peterson, II, M.D.
Thomas Gellersen, M.D.
Kevin Smith, P.A.
Sally Ann Booth, M.D.

V. PERSONAL APPEARANCES
Re: Initial Application

A. Stylianos Sideris, M.D.: Dr. Sideris is present requesting a waiver of the 7 year requirement. He took Step I in 1997 and recently passed Step III in 2004. He pointed out that he passed Step III with-in a calendar year of 7 years. He said he was trying to get his immigration worked out and he was engaged to be married and that took precedence. He also explained that if you fail Step III three times in a year, then you have to wait another year from the first time you failed it to take it again. The Board noticed that Dr. Sideris' first eligibility to take Step III, was in 1999 yet he waited 4 additional years before taking it. He never realized that it would be such an important step for licensure. Now looking back he should have taken it earlier.

Dr. Sideris stated that most states accept the calendar year, like New York, Texas, California, etc. The Board wants to be fair and consistent in addressing requests for waivers of this provision. Dr. Lurye is present to advocate for Dr. Sideris and explain why Wellborn Clinic needs Dr. Sideris. There is a way to remedy this and that would be to retake the series. This is a minimal competency exam, thus Dr. Sideris should have no problems passing the exams.

Dr. Sideris withdrew his application.
A motion was made to accept the withdrawal of his application.

Lankford/Barai
6/0/0

B. Robert G. Cooper Jr., M.D.: Dr. Cooper is present to explain his malpractice and history of alcohol abuse to the Board. In 1987 he began abusing and self-reported to the state physician advocacy program. In 1991 Dr. Cooper moved to Kentucky and was monitored by Dr. Brady. Then he enrolled in the Louisiana physician's advocacy program. He supplied the letters to the Board from the various recovery programs showing his compliance. Dr. Cooper then discussed the malpractice cases with the Board.

A motion was made to approve the application

Holt/Stewart
6/0/0

- C. Mark Bryniarski, M.D.:** He is present again with counsel Kelly Green and David Jose. A binder of information was presented to the board for their convenience. Dr. Nesbaum was the psychiatrist who completed the evaluation and his evaluation and recommendation are in the file. Ms. Green explained the contents of the binder to the Board. Dr. Bryniarski refreshed the Board's memory on his situation. He has been compliant with his stipulations on his New Mexico license for the past 6 years.

The most recent training program sent a letter; he has his psychiatric evaluation, the Kansas Board sending a letter (Beeson) he is coming here for a one year. Beeson wants a Letter from the current group to explain that they know of the issues and they will monitor him and report any incidents to the Board. He also wants a letter from the Kansas Board stating that they know about the lack of letters from Dr. Paul O'Boynick and a letter from the training program stating that they know what happened and that Dr. Bryniarski did stellar.

A motion was made to grant a license.
Holt/
There was no second, the motion dies.

A motion was made to table the application until we get more information per Dr. Beeson.
Stewart/Beeson
6/0/0

Counsel for Dr. Bryniarski reappeared with letters per the Board's request. Upon review of the documents a motion was made to grant licensure.

Barai/Malone
3/2/1(Stewart/Lankford opposed, Beeson abstained.) Motion carried.

- D. Vittorio Guerriero, M.D.:** Dr. Guerriero appeared before the Board based upon his positive response to question number 8. He has 8 malpractice suits over the course of the past 10 years, ranging from \$10,000 to \$900,000 in payouts. The concern is the general competence of Dr. Guerriero. He explained that he would like to come to Indiana because he has a practice opportunity in East Chicago, Indiana. He has been on the teaching staff at Northwestern. He would like to do more outpatient surgery here in Indiana compared to the extensive surgery which has been doing in Illinois. He intends to maintain his Illinois license.

A motion was made to grant licensure.
Holt/Barai
2/4/1 (The motion died, the license was not granted.)

A motion was made to allow him to withdraw his application.

Beeson/Holt
5/2/0

Dr. Guerriero withdrew his application for licensure.

- E. Gonzolo Hernandez, M.D.:** Dr. Hernandez did not appear before the Board.
- F. Paul O'Brien D.O.:** He answered yes to question number 5(b) due to being convicted of an offense and 8 regarding malpractice. He was arrested for pushing a reporter in the elevator at the courthouse. He had a landlord dispute and financial situation and the landlord hired reporters to harass them. During the legal battles of the matter, a reporter cut him on his hand with the camera as she was running to get film of Dr. O'Brien during the bankruptcy hearing. He reacted and pushed her away from the elevator door and she pressed charges. He went to an anger management course for 6 weeks and the charges were dropped. There is no record of this. He described the malpractice case to the Board. He will be working in Terre Haute, Indiana.

A motion was made to grant licensure.
Malone/Stewart
6/0/0

- G. Robert Owen, M.D.:** He is currently a chief resident at the University of Kentucky. He described the pending investigation before the Massachusetts Board of Medicine. A 5 year old patient with epilepsy underwent surgery, had adverse reactions and complications with the subdural grids placed at his cranium. The patient subsequently died several days later.

A motion was made to grant licensure.
Stewart/Krejsa
6/0/0

- H. Farough Owiesy, M.D.:** Dr. Owiesy did not appear before the Board.
- I. Artemio Pagdan, M.D.:** Dr. Pagdan did not appear before the Board.
- J. Karen Perl, D.O.:** Dr. Perl appeared before the Board due to her yes response to question number 7 regarding having any action taken to limit her hospital staff privileges. She had an internship in Jefferson City, Missouri where she had a personality conflict with the Director and thus left the program. She subsequently finished her internship in Wisconsin. She handed out letters explaining her situation.

A motion was made to grant licensure.
Krejsa/Lankford
7/0/0

- K. Timothy Pohlman, M.D.:** He appeared before the Board due to his history of substance abuse. He began abusing Percocet after having neck surgery in 1990. He attempted to get prescriptions and feigned injuries to do so. He was reported by a local pharmacy, went to treatment for 28 days. In 1995 he underwent compression

of two vertebrae and was not working for two or three months. He began to abuse post-op opiates. He remained sober and productive for about 6 -7 years. He later experienced another surgery (jaw) and was given his drug of choice for post-op care and again began to abuse (2002). That continued until January of 2003. He was discovered and was sent to treatment for 90 days. He reentered the Washington State Physician Assistance program. His sobriety date is 1/29/2003. He has contacted the ISMA. There are no restrictions on his Washington State license. As long as he remains compliant, he will not be charged in Washington.

He has a history of two malpractice suits. He wants to practice in Indiana because he was offered an opportunity to enter the trauma center at Clarian/Methodist/I.U. He does not have a DEA or a Washington CSR. He has not practiced since January 2003. He took off because He wanted to take the time to really address his recovery this time and make it stick. He has been doing research, but not practicing.

A motion was made to table the application until he can meet with Candace and get a monitoring agreement set up with his supervisor at Clarian. The Board would like for him to come back before them to review the practice/monitoring agreement.

Stewart/Krejsa
6/0/0

- L. Melvin Rapelyea, M.D.:** Dr. Rapelyea is a radiologist and there have been 4 cases settled in the past. He first described the cases which were dismissed. He then described the two cases in which there were payouts. The first case settled for \$65,000 and the final case settled for \$100,000. He wants this license to do teleradiology, he has several other state licenses.

A motion was made to grant licensure.
Lankford/Krejsa
7/0/0

- M. Obula Reddy, M.D.:** Dr. Reddy appeared before the Board to discuss his positive response to question number 4 regarding malpractice. In October 1991 he had a psychiatric patient with whom he was romantically involved. In December of 1991 they realized they had feelings for each other and were married in 1992. Because of this, she fired him and she went to see another psychiatrist. This was brought before the Medical Licensing Board of Illinois and he was placed on probation. He must have a chaperone and must report 1 time per year. He got a psychiatric evaluation, but did not request that he take any boundary courses. He wants a temporary license in Indiana for the three months that he must serve his suspension in Illinois and wants to practice in the Indiana penal system.

Currently, he is suspended in Illinois and will be for the next three months. The Board is very uncomfortable with this application.
Dr. Reddy withdrew his application.

A motion was made to accept the withdrawal.
Beeson/Stewart
6/1/0 (Lankford opposed)

N. Imran Shaikh, M.D.: Dr. Shaikh did not appear before the Board

O. Robert Tumacder, M.D.: Dr. Tumacder previously appeared before the Board and has complied with the Board's request. He has been sober for 7 years and has been compliant. His sobriety date is September 19, 1998. He has been evaluated by Fred Frick, M.D. and Dr. Frick supports Dr. Tumacder obtaining an Indiana license.

A motion was made to grant licensure.

Stewart/Krejsa

6/0/0

P. Colin Elliott, M.D. (Renewal): Fernando Castro-Urrutia, M.D. sent a letter to the Board indicating that Dr. Elliott has received psycho therapy he also listed the drugs that Dr. Elliott is currently taking.

A motion was made to table until he obtains a psychiatric evaluation from a Board approved psychiatrist.

Holt/Stewart

4/0/2 (Stewart/Beeson abstained.)

VI. ADMINISTRATIVE HEARINGS

A. JUAN CARLOS MEJIA, M.D. (CONTINUED)

Cause No.: 2003 MLB 0015

Re: Final Hearing

B. GUSTAVO M. OKRASSA, M.D.

Cause No.: 2004 MLB 0006

Re: Preliminary Hearing – Extension of Summary Suspension

Parties and Counsel Present:

Sara Matticks was present for the state.

Respondent was not present.

Participating Board Members:

Dr. Barai (hearing officer)

Ms. Malone

Dr. Krejsa

Dr. Holt

Dr. Lankford

Dr. Beeson

Witnesses: None.

Case Summary: The Massachusetts Board of Registration of Medicine suspended this license on July 16, 2003. This discipline was based upon the fact that Dr. Okrassa was terminated from employment for diagnosing all of his patients with post-traumatic stress disorder; prescribing Xanax, Trazodone and Klonopin to all patients; prescribing non-psychiatric medication and failing to adhere to the center's policy of

requiring patients to undergo counseling. Respondent subsequently opened his own practice where he prescribed addictive medications to patients with histories of substance abuse and without proper evaluations. He did not maintain proper medical records. Dr. Okrassa did inform Indiana of this discipline in October 2003.

The final order from Massachusetts was issued and the Massachusetts Board placed Dr. Okrassa's license on indefinite suspension. The State requested that the summary suspension be continued for an additional 90 days while they obtain the final order from Massachusetts.

The State requested the Board to renew the Summary Suspension for an additional 90 days.

Board Action: A motion was made to continue the Summary Suspension for an additional 90 days.

Malone/Lankford
Motion carried 6/0/1 (Stewart abstained.)

C. SPURGEON GREEN, M.D.

Cause No.: 2004 MLB 0004

Re: Preliminary Hearing – Extension of Summary Suspension

Parties and Counsel Present:

Sara Matticks was present for the state.
Respondent was not present.

Participating Board Members:

Dr. Stewart (hearing officer)
Ms. Malone
Dr. Krejsa
Dr. Holt
Dr. Lankford
Dr. Beeson

Witnesses: None.

Case Summary: Respondent has been charged with felony murder in Georgia and is out on bond. The Georgia Medical Board found that 6 of his patients have died of overdoses due to the prescriptions written by Dr. Green. There is evidence to indicate that he has been prescribing to known addicts and the criminal investigation in Georgia continues. Currently, Dr. Green's Georgia medical license is suspended.

Dr. Green's attorney, O. Hale Almand, Jr., faxed a letter agreeing to the extension of the summary suspension for an additional 90 days.

Board Action: A motion was made to accept the motion and to extend the summary suspension for an additional 90 days.

Stewart/Krejsa
Motion carried 6/0/0

D. MARK S. WEINBERGER, M.D.

Cause No.: 2004 MLB 0035

Re: Default Hearing

Parties and Counsel Present:

James Holden was present on behalf of the State.

Respondent is not present nor is counsel present on Respondent's behalf.

Participating Board Members:

Ms. Malone (hearing officer)

Dr. Stewart

Dr. Krejsa

Dr. Lankford

Dr. Barai

Dr. Beeson

Witnesses: Vicki Grantham

Dr. Dennis P. Han

Case Summary: The Board took official judicial notice of its file in this matter. The matter of the hearing is related to his disappearance and failure to make arrangements for any of his patients to receive treatment or their records. He has been evicted from his office space in Martinsville. The landlord has not been able to locate any medical records and Respondent has not notified his patients of his new whereabouts. The State explained their attempts at notice. Service was made by overnight mail to the address of record and the state telephoned Dr. Hayes at the last known telephone number.

Respondent's criminal trial has been rescheduled until May of 2005. The State requested the board to extend the Summary Suspension and to issue a Notice of Proposed Default. The Notice of Proposed Default was mailed with no objection being filed.

The state requested that the board enter a Default.

A motion was made to default Dr. Weinberger.

Stewart/Lankford

Motion carried 6/0/0

The board swore in the witnesses.

The State made opening remarks: Respondent disappeared in September 2004 while the family was on vacation in Greece. It was later found by his wife and staff that he had been stock piling documents, books and language tapes to facilitate a disappearance in Europe. These supplies were stored in the "scary room". He had a practice or "mill" for performing surgeries. Insurance companies were over billed and patients were misdiagnosed.

State's Exhibit #1: Certified copy of the Court Receivership

State's Exhibit #2: Transcript from ABC Dateline

Vicki Grantham: She lives in Schererville, IN. Her sister had surgery done by Dr. Weinberger several years ago. She also went to see Dr. Weinberger to assist with her headaches. All three family members went to see him and all three had procedures. Initially she felt relief then several months later she experienced headaches again. The deviated septum was still there and she still had blockage.

State's Exhibit #3: Billings that she received for her procedures and her two children. The bills total about \$28,000 for the three of them. The combined procedures for all three of them took less than one hour.

Dr. Dennis P. Han: He is an otolaryngologist in northern Indiana.

State's Exhibit #4: Dr. Han's Curriculum Vitae

Dr. Han has treated several of Dr. Weinberger's patients since 2002. He has seen about 70 - 100 of Dr. Weinberger's patients since his disappearance. Initially the patients and their diagnoses were fine and appropriate. Beginning in 2000 to 2001, he began to see patients where he could not tell if they had received surgery or not.

State's Exhibit #5: Dr. Han's chart of a patient previously seen by Dr. Weinberger.

State's Exhibit #6: Dr. Han's chart of patient G.C., a patient previously seen by Dr. Weinberger. Patient G.C. was told that he had nasal polyps and that he received surgery. There was no sign of polyps from the pre-op CT scan and no difference between the pre-op and post-op scans.

State's Exhibit #7: Dr. Han's chart of patient L.W., a patient previously seen by Dr. Weinberger. He did not look like he had any surgery done by Dr. Weinberger. Every op report was billed for the same thing.

State's Exhibit #8: Patient records of C.K.

State's Exhibit #9: Patient records of M. L.

State's Exhibit #15: diagram of the sinuses.

Dr. W. typically billed for the same debriments several times for every patient.

State's Exhibit #16: Dr. Han's chart of patient, Vicki Grantham, a patient previously seen by Dr. Weinberger.

Dr. Han testified that Dr. Weinberger did do CT scans of his patients, but he did not do the surgeries he said. As the time got closer to his disappearance he did fewer and fewer surgeries rather he put the patients to sleep and woke them up having done nothing. Dr. Weinberger did always have an anesthesiologist present. He did have privileges at Crown Point and St. Anthony's, but subsequently dropped privileges there several years ago.

Board: This pattern of surgeries and lack thereof may implicate the anesthesiologist as well. The patients claimed that their surgeries took about 10 -15 minutes when it should have taken about one and 1/2 to two hours.

State's Exhibits 10 - 14: Signed affidavits from patients who could not be present today along with their medical records.

Closing arguments were made by the state and the state requested the Board revoke the license. Mr. Holden also asked the Board to levy the maximum fine of \$1,000 per count equaling a total of \$2,000 and he asked the board to include any costs of these proceedings (approximately \$2,000).

Board Action: A motion was made to revoke the license, plus order the payment of the fine and any costs due 30 days from the date of the order.

Krejsa/Stewart
Motion carried 6/0/1 (Holt abstained.)

E. FREDERICK BATTLE, M.D.

Cause No.: 2003 MLB 0043

Re: Final Hearing

Parties and Counsel Present:

James Holden is counsel for the State of Indiana.

Respondent was not present nor was counsel present on behalf of respondent.

Participating Board Members:

Dr. Barai(hearing officer)

Dr. Holt

Ms. Malone

Dr. Krejsa

Dr. Lankford

Dr. Stewart

Dr. Beeson

Witnesses: None

Case Summary: The parties have come to an agreement and presented such to the Board. Dr. Battle was recently convicted for distributing Oxycontin with no medical basis. Dr. Battle is 72 years old and suffers from a brain disease which is "rotting" his brain. It is not Alzheimer, but similar. He is currently on summary suspension. His family and his counsel agree that he should not practice medicine again. He does not want to lose his license entirely and thus they agreed to have his license on indefinite suspension for a minimum of 5 years before he can petition for reinstatement.

Board Action: A motion was made to accept the agreement.

Krejsa/Holt
Motion carried 7/0/0

F. JERRY REYES, M.D.

Cause No.: 2002 MLB 0026

Re: Final Hearing

Parties and Counsel Present:

James Holden is counsel for the State of Indiana.

Respondent was not present, but counsel, Franco Upano, is present on behalf of respondent.

Participating Board Members:

Ms. Malone (hearing officer)
Dr. Krejsa
Dr. Lankford
Dr. Barai
Dr. Stewart
Dr. Beeson

Witnesses: None

Case Summary: The State reminded the Board of the Objection filed by Respondent. The Board addressed the motion. Respondent believes that Respondent has the right to be present, however he cannot show up because he is in prison. The client has the right to confront his accusers and since he is in jail, he cannot do so. They would like to inspect the files of Dr. Hoshour, Dr. Provisor and Dr. Krist in defending this case before the Board. Mr. Upano read the newspaper article into the record regarding Dr. Hoshour and his arrest and incarceration. His client is in jail for manslaughter. He referred to IC 25-1-19 and explained that the board shall achieve consistency in issuing their discipline.

The State: with respect to the abstentia issue, it has been the standard practice of this board and consistent with AOPA that the Board has no duty to assist the Respondent in getting here. The respondent does have the ability to appear telephonically and by counsel. Mr. Upano is here to represent the Respondent. The State recommends the Board proceed. The Respondent was served at three different addresses--the S. Madison Rd. which is still on file with the Board, which is the only address which we are required to serve him. He was also served by his counsel and at his last known address, Johnson County Jail. And when it was found that he was at a different facility, Ms. Smith Jones sent notice out to the new address.

The state differentiated the Hoshour case from today's reference and stated that proceeding today is proper.

Rebuttal: The board sent the notices to three bad addresses. He pointed out the correct address and notice was re-sent to Respondent. He cannot defend himself telephonically because they were not able to coordinate that with the prison system.

Board Action: (on the motion filed by Respondent) A motion was made to proceed with the final hearing.

Stewart/Krejsa
Motion carried 7/0/0

The State made Opening Statements.

State's Exhibit #1: Certified Probable Cause Affidavit and Charging information
State's Exhibit #2: Certified copy of the Plea Agreement

State's Exhibit #3: Certified Copy of Abstract of Judgment (admitted over objection)
State's Exhibit #4: Certified copy of the Charging Information and Probable Cause Affidavit (Johnson Circuit Court)
State's Exhibit #5: Plea Agreement in Johnson Superior Court (Certified Copy)
State's Exhibit #6: Sentencing Document after Guilty Plea before the Johnson Superior Court –Certified Copy.

The State Rests.

Respondent wants to present the files of the other cases under IC 25-1-9-19 to direct the board to be consistent in their decision. The Respondent read the newspaper report into the record. Mr. Upano referred to the cases in his motion.

Hoshour was found guilty of conspiracy to commit murder and his license was reinstated. Provisor was found guilty of child molestation and the Board reinstated her. Krist was found guilty of kidnapping and burying a woman alive and was given a license. The significance is that if the Board is going to take action on the license of the Respondent that the board needs to reinstate Respondent's license as they did before. The State objected to counsel's position based upon relevance. Barbara Malone reminded Mr. Upano that the Board did take disciplinary action against the physicians referred to by Mr. Upano. Mr. Upano is requesting to have his client's license reinstated.

The parties made closing remarks.

The State requested that the Board suspend the license for 50 years and a maximum fine of \$2,000 and costs.

Board Action: A motion was made to revoke the license, with \$2,000 fines and costs due 30 days from the date of the final order.

Malone/Barai
Motion carried 6/0/0

G. MARK G. DOYLE, M.D.

Cause No. 2003 MLB 0051

Re: Petition for Modification of Probation

Parties and Counsel Present:

James Holden is counsel for the State of Indiana.
Respondent is present with counsel, Skip Whaley.

Participating Board Members:

Dr. Krejsa (hearing officer)
Dr. Holt
Ms. Malone
Dr. Lankford
Dr. Barai
Dr. Stewart
Dr. Beeson

Witnesses: Dr. Doyle

Case Summary: Dr. Doyle's license was placed on probation after a hearing held February 26, 2004. Dr. Doyle would like to go back to the DEA to get his license and thus they must come before the Board prior to doing that. It appears that any and every job he applies for requires him to have a DEA number. Dr. Doyle has complied in all respects with his probationary order. He has undergone psychiatric evaluations etc., and the psychiatrists agree that there is no reason for him not to get his CSR and DEA. Dr. Beeson recommended that the new order include the language from the DEA MOU about not being able to prescribe to any family member.

The Respondent does not object and the language recommended by Dr. Beeson is acceptable to the state.

Board Action: A motion was made to modify probation to allow Dr. Doyle to apply for his DEA license and to include the language of the DEA Memorandum of Understanding restricting his prescribing.

Beeson/Barai
Motion carried 6/1/0 (Stewart abstained)

H. DONALD W. TAYLOR, M.D.

Cause No.: 2004 MLB 0046

Re: Final Hearing

Parties and Counsel Present:

Steve Douglas is counsel for the State of Indiana.

Respondent was not present nor was counsel present on behalf of respondent.

Participating Board Members:

Ms. Malone (hearing officer)

Dr. Holt

Dr. Krejsa

Dr. Lankford

Dr. Barai

Dr. Beeson

Witnesses: None

Case Summary: Dr. Taylor is licensed in Montana. In February 2004 his Montana license was placed on summary suspension following a violation of his agreement with the Montana Professional Assistance Program. The Montana order details the history of Respondent's alcohol abuse. Subsequent to being summarily suspended, the Respondent's license was revoked on May 21, 2004. did not get into the medical corps and he cannot be found. The state asked for a Notice of Proposed Default.

The State requested the Board to issue the Notice of Proposed Default.

Board Action: A motion was made to issue a notice of proposed default.

Lankford/Krejsa
Motion carried 7/0/0

I. JOHN E. DOLATOWSKI, M.D. (CONTINUED)

Cause No.: 2004 MLB 0039

Re: Final Hearing

J. NANCY NOEL, M.D.

Cause No.: 2005 MLB 0007

Re: Settlement Conference/Final Hearing

Parties and Counsel Present:

Sara Matticks is counsel for the State of Indiana.

Respondent was present with counsel, James Voyles.

Participating Board Members:

Dr. Holt (hearing officer)

Ms. Malone

Dr. Krejsa

Dr. Lankford

Dr. Barai

Dr. Stewart

Dr. Beeson

Witnesses: None

Case Summary: The parties presented a signed agreement to the Board for their approval. On page 3 of the agreement (i) it should say copy of Board's order to Dr. Lubitz *within* seven days...not with. Dr. Noel also has a Memorandum of Understanding (MOU) with the DEA. The Board wants to make the MOU an attachment and exhibit as Exhibit "A" to be included with the order. She'll be working with Dr. Lubitz at St. Vincent's Hospital.

Board Action: A motion was made to accept the agreement as presented with changes.

Stewart/Krejsa

Motion carried 7/0/0

K. MILES JAMES JONES, M.D.

Cause No.: 2005 MLB 0004

Re: Final Hearing

Parties and Counsel Present:

Sara Matticks is counsel for the State of Indiana.

Respondent was not present nor was counsel present on behalf of respondent.

Participating Board Members:

Dr. Beeson (hearing officer)

Ms. Malone

Dr. Krejsa

Dr. Lankford
Dr. Barai
Dr. Stewart

Witnesses: None.

Case Summary: Respondent's license has been revoked in several other states due to his inappropriate care by prescribing over the internet. State request that the Board issue a notice of proposed default.

Board Action: A motion was made to issue a notice of proposed default.

Lankford/Krejsa
Motion carried 6/0/0

L. VANCE ANDRE RAHAM, M.D.

Cause No.: 2005 MLB 0002
Re: Final Hearing

Parties and Counsel Present:

Sara Matticks is counsel for the State of Indiana.
Respondent is present with counsel, Beth Ann Compton.

Participating Board Members:

Dr. Lankford (hearing officer)
Dr. Holt
Ms. Malone
Dr. Krejsa
Dr. Barai
Dr. Stewart
Dr. Beeson

Witnesses: None

Case Summary: Dr. Raham is an OBY/GYN he completed a 5 year recovery contract in 1993 for abusing Stadol and for having anger management issues. He suffered a relapse when he was working at Fayette Memorial Hospital. The hospital subsequently suspended his privileges. Dr. Raham went back to ISMA and signed a new recovering contract in January 2004 and has been compliant. He now has hospital privileges at three separate hospitals. He mainly practices at Rushville Hospital and he brought a letter from the Chief of Staff. He is limited to working 40 hours per week.

They stipulated that he practiced while unfit. He will agree to be on indefinite probation with the following terms and conditions:

- He cannot petition for termination of probation for 4 years from the date of the order.
- He shall keep the board informed of his address,
- He shall be compliant with his ISMA contract.

- He shall make personal appearances before the Board on a quarterly basis.
- His practice is limited to 40 hours per week,
- He is to have supervisory reports from Dr. Monroe, who would act as his supervisor, submitted monthly.
- He must submit monthly logs for all controlled substance prescriptions written.
- He must submit a signed order by Dr. Monroe to the Board within 7 days of receiving the final order.
- He must complete 50 hours of community service annually,
- He is to report any relapse to the Board within 24 hours. Order to show cause language is to be included in the order.

The Board went back on the record after the final vote. Ms. Compton noted that the agreement should say that Dr. Raham will be on indefinite probation and can petition in January 2009 to be consistent with the ISMA contract and correspond with such. The vote was made again with the specific language change. A motion to change the language as presented. Krejsa/Barai 5/0/2 (Lankford/Holt)

Board Action: A motion was made to accept the settlement as presented.

Krejsa/Malone

Motion carried 5/0/2 (Holt and Lankford abstained.)

M. PAUL KEVIN BARKAL, M.D. (CONTINUED)

Cause No.: 2001 MLB 0024

Re: Order to Show Cause

N. GREGORY BROWN, M.D.

Cause No.: 2005 MLB 0013

Re: Preliminary/Final Hearing

Parties and Counsel Present:

Sara Matticks is present for the State.

Respondent was not present nor is he represented by counsel.

Participating Board Members:

Dr. Stewart (hearing officer)

Dr. Lankford

Ms. Malone

Dr. Krejsa

Dr. Barai

Dr. Beeson

Witnesses: None.

Case Summary: Respondent has a substance abuse problem and has fallen off of the wagon several times in the past. She spoke with Dr. Brown and he has no objection to the Summary Suspension. The State entered a copy of the discipline issued against his Kentucky license where he surrendered his Kentucky license.

The State spoke with the Respondent and he requested that the final hearing be continued and that he remain on summary suspension for an additional 90 days. They may be able to come up with an agreement.

Board Action: A motion was made to summarily suspend the license for an additional 90 days.

Krejsa/Lankford
Motion carried 6/0/0

O. DAVID D. CHUBE, II, M.D.

Cause No.: 2005 MLB 0024

Re: Petition for Summary Suspension

CHARLES RANDALL CHUBE, M.D.

Cause No.: 2005 MLB 0023

Re: Petition for Summary Suspension

Parties and Counsel Present:

Sara Matticks is counsel for the State of Indiana.

Respondents are present with counsel, Ross Hubbell (Charles) and Kevin Milner (David)

On the Record, the parties agreed to consolidate the cases in presenting to the Board.

Participating Board Members:

Ms. Malone (hearing officer)

Dr. Krejsa

Dr. Lankford

Dr. Barai

Dr. Stewart

Dr. Beeson

Witnesses: Deborah L. LaPosa

Case Summary: The State made opening arguments. They own and operate the Great Lakes Family Health Center. They came to the attention of the DEA by the number of controlled substances they were prescribing, especially since the office is in an economically deprived area of Gary and for a general practice. They have criminal indictment charges pending on some 30 odd counts in Federal Court. (They are Medicaid/Medicare fraud charges.)

Respondents: The DEA enacted the "Oxycontin witch hunt" which targeted physicians, pharmacists and dentists, after the Federal Government issued a report saying the DEA's war against drugs was at a "0". The Chubes just won a settlement in a private law suit against the local pharmacies in the area for false and misleading information about them. Mr. Hubble believes the case will be dismissed in trial before the Federal Government. He has a box of letters that the Chubes sent to their

patients when they found out that they were doctor shopping, etc. This was done during the time the DEA alleges that the inappropriate practices of medicine were committed. They went the extra mile to ensure that there was no drug diversion going on in their practice. There were never allegations of them doing this for monetary gain.

State's Exhibit # 1: Indictment of the Chubes, filed in the U.S. District Court Northern District of Indiana, Hammond Division,

Deborah L. LaPosa: She is a Medicaid fraud investigator with the Office of the Attorney General from Merrillville, IN. She has been so employed for about 10 years. She reviewed 101 files of the Doctors Chube. The files were missing information, especially in the intake process. 27 files were lacking in documentation. On many records the patients were seen by both physicians from time to time. In all of the charts but three, the patients were being prescribed controlled substances. She reviewed her charts.

State's Exhibit #2: Patient D.S.'s records.

State's Exhibits #3 and #4: Letters to patient advising them that Respondents could no longer provide medical treatment to them due to differences in philosophy presented as.

State's Exhibit #5: Report prepared by Ms. LaPosa.

State's Exhibit #6: Letter from pharmacist Douglas Dick to the Chubes.

State's Exhibit #7: Copies of patient records for C.Cannon.

Witness testified regarding letter from Medicaid Drug Utilization Review board to Randall Chube stating that one of his patient's may have a problem with drugs.

State's Exhibit #8: Letter to Dr. Charles R. Chube from the Office of Medicaid

State's Exhibit #80: Letter to Dr. Charles R. Chube from the Office of Medicaid

State's Exhibit #82: Print out from Medicaid

State's Exhibit #83: Letter to D. Chube from Dr. Park that referral has medical problem secondary to cocaine use.

State's Exhibit #84: Patient records of K. Jones

State's Exhibit #85: Letter from Dr. King to Randall Chube regarding a patient referral M. Parker

State's Exhibit #86: Patient records of M. Parker

State's Exhibit #87: Patient records of B. Clark

State's Exhibit #88: Print out of report on B. Clark

State's Exhibit #89: Letter from Dr. King to Randall Chube regarding a patient referral J.S.

State's Exhibit #90: Patient records of J.S.

State's Exhibit #91: Patient records of M.S.

State's Exhibit #92: Patient records of M.S.

State's Exhibit #93: Letter to Dr. David D. Chube from the Office of Medicaid dated June 30, 2000

State's Exhibit #94: Print out of report on J.B.

State's Exhibit #95: Patient records of B.F.
State's Exhibit #96: Patient records of D.L.
State's Exhibit #97: Print out of report on D.L.
State's Exhibit #98: Letter to Dr. Charles R. Chube from the Office of Medicaid dated June 13, 2000
State's Exhibit #99: One sheet of patient record.

Respondent's counsel wants to have the entire file admitted so that the board can review the entire chart at one time rather than pieces at a time.

State's Exhibit #100: Entire medical chart of patient J.S.
State's Exhibit #101: Entire medical chart of patient D.S.
State's Exhibit #102: Entire medical chart of patient K.J.

Cross of Ms. LaPosa: She has been to their office in Gary. She only reviewed the Medicare patient charts and the charts that were given to her. She was only looking for Medicaid fraud. She was looking for what types of prescribing were going on and to see if the charts looked to be in order. She did not talk with anyone of the patients. It was her understanding that the Federal Government was doing that. The standard is that if it is documented then an exam was given if it is not, then an exam was not given.

Respondent made a motion for a directed verdict and for the board to deny the petition for summary suspension.

Board Action: A motion was made to grant the motion for a directed verdict and to deny the Petition for Summary Suspension. The Board does not feel comfortable suspending these licenses and wants to see the full case.

Beeson/Barai
Motion carried 6/0/0

P. MARVIN E. GOLD, M.D.

Cause No.: 2005 MLB 0026

Re: Petition for Summary Suspension

Parties and Counsel Present:

Steven Douglas is counsel for the State of Indiana.

Respondent was not present nor was counsel present on behalf of respondent.

Participating Board Members:

Dr. Stewart (hearing officer)

Ms. Malone

Dr. Krejsa

Dr. Lankford

Dr. Barai

Dr. Beeson

Witnesses: Officer Robert Taylor
Thomas M. Brown, M.D.

Case Summary: He is prescribing Oxycontin out of his home in vast amounts to people who might seem to be somewhat suspect. We have Dr. Brown here and Mr. Robert Taylor who is an officer in the area where Dr. Gold lives.

Dr. Thomas Michael Brown: He is a board certified family physician and works in Knox, Indiana and works in the emergency room. He was working in the ER when a patient presented with what appeared to be a drug overdose. She presented intubated by the EMT's and could not find any known medications. She had recently picked up a prescription written by Dr. Gold. She was critical upon arrival. His diagnosis was a drug overdose. The patient had a positive drug screen of benzodiazepines. Three patients came in within 24 hours from drug overdoses from prescriptions written by Dr. Gold. (Dr. Gold is an orthopaedic surgeon)

Commander Robert Taylor: He has been involved with the police force since 1971. He currently works with the prosecutor. They received numerous complaints throughout the community about prescriptions being written by Dr. Gold out of his home without any physical examination. He found an informant who cooperated with them, as he had been purchasing prescriptions from Dr. Gold. He was followed by the undercover police. He came back out with scripts for Vicodin and Oxycontin. They sent in an undercover cop in and he asked for Oxycontin for "lower back pain." Dr. Gold wrote the prescription. Dr. Gold's office has been closed since April 2003. No medical equipment was seen or noted.

State's Exhibit #4: A photograph of Dr. Gold's home and garage.

State's Exhibit #1: Case Report by Joseph Morrison

State's Exhibit # 2: Case Report of details of second occasion of obtaining the prescriptions.

State's Exhibit #3: Certified detailed prescribing record of Dr. Gold from January 2003 to the present.

State's Exhibit #5: A tape recording of the surveillance conducted by the Porter County Police—setting up the buy.

State's Exhibit #6: A tape recording of the surveillance conducted by the Porter County Police—1st contact.

State's Exhibit #7: A tape recording of the surveillance conducted by the Porter County Police—2nd contact.

State's Exhibit #8: A tape recording of the surveillance conducted by the Porter County Police—receiving the script.

The State requested the Board to summarily suspend the license for 90 days.

Board Action: A motion was made to summarily suspend the license for 90 days.

Barai/Krejsa
Motion carried 6/0/0

VII. PRE-HEARING CONFERENCES

The Pre-hearing conferences were held before one member of the Board.

9:00 A.M. **WILLIAM H. HAGENMEYER, D.O.**
Cause No.: 2003 MLB 0030

9:10 A.M. **WILLIAM ARBAUGH DUNCAN, M.D.**
Cause No.: 2005 MLB 0011

9:15 A.M. **VLADIMIR VASIC, M.D.**
Cause No.: 2005 MLB 0012

9:20 A.M. **LYNN MILLER, M.D.**
Cause No.: 2005 MLB 0019

9:30 A.M. **SERGIO PISTERMAN, M.D.**
Cause No.: 2005 MLB 0014

9:35 A.M. **PATSY JEAN WEBBERHUNT, M.D.**
Cause No.: 2004 MLB 0015

VIII. NOTICE OF PROPOSED DEFAULT

A. RAMON PORTALES, M.D.
Cause No.: 2004 MLB 0017

Parties and Counsel Present:

James Holden is counsel for the State of Indiana.

Respondent was not present nor was counsel present on behalf of respondent.

Participating Board Members:

Dr. Krejsa (hearing officer)

Ms. Malone

Dr. Lankford

Dr. Barai

Dr. Stewart

Dr. Beeson

Witnesses: None

Case Summary: Respondent surrendered his California license to practice medicine. This surrender was based upon the following discipline: Respondent aided and abetted the unlicensed practice of medicine, he engaged in acts involving dishonesty and/or corruption and unprofessional conduct.

The State asked the Board to hold Respondent in default.

Board Action: A motion was made to hold the Respondent in default.

Krejsa/Stewart

Motion carried 6/0/0

State's Exhibit 1: Certified copy of the Discipline taken by the California Board.

The state asked the Board to suspend or revoke Respondent's license.

Board Action: A motion was made to revoke the license.

Lankford/Krejsa
Motion carried 6/0/0

B. YONGSOO KWON, M.D.

Cause No.: 2004 MLB 0044

Parties and Counsel Present:

Steven Douglas is counsel for the State of Indiana.

Respondent was not present nor was counsel present on behalf of respondent.

Participating Board Members:

Dr. Lankford (hearing officer)
Ms. Malone
Dr. Krejsa
Dr. Stewart
Dr. Beeson

Witnesses: None

Case Summary: Respondent committed renewal fraud when he answered "No" on his 2003 renewal to question number 5 regarding, "have you ever been denied staff membership privileges in any hospital or health care facility or, have staff membership or privileges been revoked, suspended or subjected to any restriction or probation, or other type of discipline or limitations." When in fact Respondent had an application for privileges denied. Respondent also resigned staff membership privileges while under investigation.

The State asked the Board to hold Respondent in default.

Board Action: A motion was made to hold the Respondent in default.

Lankford/Stewart
5/0/0

This is a fraud case. He was employed at Good Samaritan Hospital in Mt. Vernon, Illinois and he was placed on "emergency precautional suspension of privileges". In May 2003, Respondent answered his renewal fraudulently.

State's Exhibit 1: Application for appointment to medical staff

State's Exhibit 2: Application for appointment to Community Hospital, Munster, Indiana

State's Exhibit 3: Respondent's renewal application from 2003

State's Exhibit 4: NPDB report submitted by The Community Hospital

The State asked the Board to issue appropriate sanctions.

Board Action: A motion was made to revoke the license since Respondent has lied so many times on so many different documents.

Lankford/Stewart
3/3/0 (the motion died.)

A motion was made to place the Respondent on indefinite suspension.
Barai/Stewart
Motion carried 6/0/0

C. MARK A. HAYES, M.D.
Cause No.: 2004 MLB 0007

Parties and Counsel Present:

James Holden is counsel for the State of Indiana.
Respondent was not present nor was counsel present on behalf of respondent.

Participating Board Members:

Dr. Barai (hearing officer)
Ms. Malone
Dr. Krejsa
Dr. Lankford
Dr. Stewart
Dr. Beeson

Witnesses: None

Case Summary: The Board took official judicial notice of its file in this matter. The matter of the hearing is related to his disappearance and failure to make arrangements for any of his patients to receive treatment or their records. He has been evicted from his office space in Martinsville. The landlord has not been able to locate any medical records and Respondent has not notified his patients of his new whereabouts. The State explained their attempts at notice. Service was made by overnight mail to the address of record and the state telephoned Dr. Hayes at the last known telephone number.

The State began by giving the procedural background. Dr. Hayes has been on Summary Suspension for several months and has not appeared for quite some time. Last month the Board issued a Notice of Proposed default however the notice was not sent out timely and thus the state is going to proceed (under AOPA). The evidence will be presented tonight and the board will hold the decision in abeyance. (per Mr. Schmidt)

Count I: Failure to follow proper procedure in closing his office.

Count II: Wrongful disclosure of identifiable health information.

Count III: Relates to his arrest for dealing drugs, where he exchanged prescriptions for narcotics.

Count IV: Relates to his drug use, at least back to March 2004 where they found methamphetamine paraphernalia at his home.

Count V: Relates to his application fraud.

State's Exhibit 1: Transcript from February 26, 2004 hearing

State's Exhibit 2: Transcript from April 22, 2004 hearing

State's Exhibit 3: Morgan County Superior Court Charges and Probable Cause Affidavit.

State's Exhibit 4: Conviction for possession of a dangerous controlled substance in Oklahoma.

State's Exhibit 5: His application for licensure.

The State requested the Board to Revoke his License and levy \$1,000 fine per count, which would be \$5,000 plus assess costs.

Board Action: No action was taken, the action was held in abeyance.

IX. DISCUSSION ITEMS:

- a) Susan Hill, D.O.
Re: Termination of Probation

A motion was made to grant the hearing before the ALJ, Dr. Lankford.

Stewart/Krejsa
Motion carried 6/0/0

- b) Alabama Physicians Health Program
Re: Sexual Boundaries Course for Board Members

The Board reviewed the information.

- c) Deborah Provisor, M.D.
Re: Petition for Modification of Probation

A motion was made to grant the hearing before the full Board, probably August according to the calendar.

Beeson/Barai
Motion carried 6/0/0

- d) David Lynn Skidmore, M.D.
Re: Respondent's Response to the Notice of Proposed Default

A motion was made to hold the Notice of Proposed Default and set this matter for a final hearing at a later date.

Malone/Barai
Motion carried 60/0

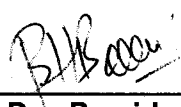
X. PERMIT/LICENSURE APPLICATIONS

A motion was made and seconded to approve all recommendations and decisions made by the Board members on applications for licensure that were reviewed throughout the Board meeting and at any other time since the last Board meeting.

Barai/Lankford
Motion carried 6/0/0

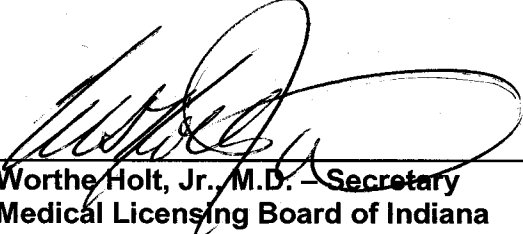
XI. ADJOURNMENT

There being no further business and having completed its duties, the meeting of the Medical Licensing Board of Indiana adjourned at 11:20 p.m.

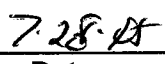


Bharat Barai, M.D. – President
Medical Licensing Board of Indiana

Date



Worthe Holt, Jr., M.D. – Secretary
Medical Licensing Board of Indiana



Date